

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

MONROE COUNTY BOARD
OF COMMISSIONERS, et al.,

Plaintiffs,

V.

UNITED STATES FOREST SERVICE, et al.,

Defendants.

Case No. 4:23-cv-00012-TWP-KMB

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65-2(a), Plaintiffs Monroe County Board of Commissioners, Indiana Forest Alliance, Hoosier Environmental Council, and Friends of Lake Monroe (collectively, “Plaintiffs”) hereby move for a preliminary injunction to enjoin Defendants—i.e., the U.S. Forest Service and officials of that agency—from taking any action to implement the Houston South Vegetation Management and Restoration Project in the Hoosier National Forest. This project entails substantial burning, logging, herbicide application, and road building in thousands of acres of Indiana’s only national forest, including in important wildlife habitat and recreation areas. These activities will occur on highly erodible, steep slopes that will drain project-related pollutants into Lake Monroe—the sole drinking water source for nearly 150,000 Hoosiers—thereby significantly exacerbating degradation of these waters and threatening public health, safety, and recreational interests in the Lake Monroe watershed.

Despite these grave risks to Indiana’s residents and ecosystem, the Forest Service represents that it will proceed with project implementation as soon as April 1, 2023, including by conducting widespread prescribed burns on several thousand acres during the month of April. Yet the agency has neither complied with this Court’s prior order remanding the Forest Service’s

November 2019 Environmental Assessment for further consideration, nor has the Forest Service adhered to the requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4347. As explained in the accompanying memorandum in support of this motion, the Forest Service’s decision to prepare a non-NEPA document (called a Supplemental Information Report) rather than an Environmental Impact Statement or an Environmental Assessment stands in clear violation of NEPA. As demonstrated by the memorandum and Plaintiffs’ declarations, Plaintiffs also satisfy the other requirements for issuance of a preliminary injunction to maintain the status quo until the Court has a reasonable opportunity to resolve the case on the merits.

Because the Forest Service insists on moving forward with project implementation on April 1, 2023, and Plaintiffs do not view that time frame as sufficient for the parties to fully present their case on the merits or for the Court to render a fully informed merits decision, Plaintiffs are filing this motion to preserve the status quo.¹

*Accordingly, Plaintiffs respectfully request that the Court issue a ruling on this motion **no later than March 31, 2023** to avoid irreparable harm to Plaintiffs’ interests in the Hoosier National Forest and its wildlife, Lake Monroe, water quality, safety, and public health.*

¹ For this reason, Plaintiffs do not view this case as appropriate for consolidation with the merits under Federal Rule of Civil Procedure 65(a)(2). Given the same timing constraints described above, Plaintiffs are only raising in this motion *some*—but not all—of the claims they may ultimately pursue on the merits. *See* ECF No. 1; *see also Tex. v. Camensich*, 450 U.S. 390, 395 (1981) (“The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held. Given this limited purpose, and given the haste that is often necessary if those positions are to be preserved, a preliminary injunction is customarily granted on the basis of procedures that are less formal and evidence that is less complete than in a trial on the merits.”).

Respectfully submitted,

/s/ William S. Eubanks II
William S. Eubanks II
Eubanks & Associates, PLLC
1629 K Street NW, Suite 300
Washington, DC 20006
(970) 703-6060
bill@eubankslegal.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

Respectfully submitted,

/s/ William S. Eubanks II
William S. Eubanks II
Eubanks & Associates, PLLC
1629 K Street NW, Suite 300
Washington, DC 20006
(970) 703-6060
bill@eubankslegal.com

Counsel for Plaintiffs